

**To:** Byrd, Terrence[Byrd.Terrence@epa.gov]; Negron, Jose[Negron.Jose@epa.gov]; Berry, Chuck[Berry.Chuck@epa.gov]; Andrew, Gary[Andrew.Gary@epa.gov]; Andrews, David[Andrews.David@epa.gov]; Ball, Stephen[Ball.Stephen@epa.gov]; Booth, Jason[Booth.Jason@epa.gov]; Buerki, Karen[Buerki.Karen@epa.gov]; Crowley, Jeffery[Crowley.Jeffery@epa.gov]; Eger, Chuck[Eger.Chuck@epa.gov]; Eichinger, Kevin[Eichinger.Kevin@epa.gov]; Englert, Brian[Englert.Brian@epa.gov]; Franco, Benjamin[Franco.Benjamin@epa.gov]; Garrard, Jordan[Garrard.Jordan@epa.gov]; Gaughan, Perry[Gaughan.Perry@epa.gov]; Harper, Greg[Harper.Greg@epa.gov]; Huyser, Matthew[Huyser.Matthew@epa.gov]; Jardine, Rick[Jardine.Richard@epa.gov]; Kenneth Rhame[Rhame.Kenneth@epa.gov]; Neal, Timothy[Neal.Timothy@epa.gov]; Patel, Subash[Patel.Subash@epa.gov]; Russell, Chris[Russell.Chris@epa.gov]; Sargent, Neil[Sargent.Neil@epa.gov]; Smith, Art[Smith.Art@epa.gov]; Spurlin, Steve[Spurlin.Steve@epa.gov]; Stilman, Terry[Stilman.Terry@epa.gov]; Tanner, Terry[Tanner.Terry@epa.gov]; Walden, Ted[Walden.Ted@epa.gov]; Williamson, Carter[Williamson.Carter@epa.gov]; Taylor, Matt[Taylor.Matt@epa.gov]; Webster, James[Webster.James@epa.gov]; McGuire, Jim[McGuire.Jim@epa.gov]

**From:** Francendese, Leo

**Sent:** Fri 1/10/2014 7:12:08 PM

**Subject:** Re: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

[https://www.epaossc.org/site/site\\_profile.aspx?site\\_id=7204](https://www.epaossc.org/site/site_profile.aspx?site_id=7204)

Here's an example of the last PnC ER that I'm aware of. Should help whatever discussion you have.

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**From:** Byrd, Terrence

**Sent:** Friday, January 10, 2014 1:00:50 PM

**To:** Negron, Jose; Berry, Chuck; Andrew, Gary; Andrews, David; Ball, Stephen; Booth, Jason; Buerki, Karen; Crowley, Jeffery; Eger, Chuck; Eichinger, Kevin; Englert, Brian; Francendese, Leo; Franco, Benjamin; Garrard, Jordan; Gaughan, Perry; Harper, Greg; Huyser, Matthew; Jardine, Rick; Kenneth Rhame; Neal, Timothy; Patel, Subash; Russell, Chris; Sargent, Neil; Smith, Art; Spurlin, Steve; Stilman, Terry; Tanner, Terry; Walden, Ted; Williamson, Carter; Taylor, Matt; Webster, James; McGuire, Jim  
**Subject:** Re: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

These are the type of topics that we should discuss during ROT meetings.

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**From:** Negron, Jose

**Sent:** Friday, January 10, 2014 1:10:00 PM

**To:** Berry, Chuck; Andrew, Gary; Andrews, David; Ball, Stephen; Booth, Jason; Buerki, Karen; Byrd, Terrence; Crowley, Jeffery; Eger, Chuck; Eichinger, Kevin; Englert, Brian; Francendese, Leo; Franco, Benjamin; Garrard, Jordan; Gaughan, Perry; Harper, Greg; Huyser, Matthew; Jardine, Rick; Kenneth Rhame; Neal, Timothy; Patel, Subash; Russell, Chris; Sargent, Neil; Smith, Art; Spurlin, Steve; Stilman, Terry; Tanner, Terry; Walden, Ted; Williamson, Carter; Taylor, Matt; Webster, James; McGuire, Jim  
**Subject:** RE: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

Chuck:

Yes and no. ☺ Goes back in history to the development of the Water Pollution Act and then the Clean Water Act . Back then a list based on what known chemicals where **impairing** (here is your impact) the waters was developed. That list includes all the chemicals regulated under the CWA which must be reported when the permitted amount is exceeded. That list can be amended to either remove or add chemicals as better sampling and analytical techniques re developed . Also included in the must report are those chemicals that may not be listed but have RCRA characteristic waste (a product when released becomes a waste (a different discussion point)).

**From:** Berry, Chuck

**Sent:** Friday, January 10, 2014 12:21 PM

**To:** Andrew, Gary; Andrews, David; Ball, Stephen; Berry, Chuck; Booth, Jason; Buerki, Karen; Byrd, Terrence; Crowley, Jeffery; Eger, Chuck; Eichinger, Kevin; Englert, Brian; Francendese, Leo; Franco, Benjamin; Garrard, Jordan; Gaughan, Perry; Harper, Greg; Huyser, Matthew; Jardine, Rick; Kenneth Rhame; Neal, Timothy; Negron, Jose; Patel, Subash; Russell, Chris; Sargent, Neil; Smith, Art; Spurlin, Steve; Stilman, Terry; Tanner, Terry; Walden, Ted; Williamson, Carter; Taylor, Matt; Webster, James; McGuire, Jim

**Subject:** RE: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

hypothetically speaking, what if the facility didn't have an npdes permit?

my real question here what is the actual reporting requirement for a pollutant or contaminant? is there some impact threshold it has to cross (e.g. impact to water supplies, fish kill) or is it just a simple "none" unless they're controlled by some other program?

I tried to look it up in the NCP, but the response section is divided up into 'oil response' and 'hazardous substance' response, and the haz sub section only refers back to cercla 103a and c, which themselves only refer to haz substances.

40 cfr 302 provides for 'unlisted haz substances' by including haz waste (characteristic or listed), so that would include a bunch of stuff out there as well, but throughout the section the phrase 'listed haz substance' is used. I didn't find the words 'pollutant' or 'contaminant' in the entire section.

it's an academic question, and not necessarily applicable to last night's spill. if there's no answer, that's fine as well. I get that we can respond as a pollutant or contaminant, but I'm speaking strictly to reporting requirements.

I just naturally thought there would be some sort of impact-determined reporting requirement. I guess not.

**Chuck Berry**

On-Scene Coordinator

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**From:** Negron, Jose

**Sent:** Friday, January 10, 2014 11:10 AM

**To:** Berry, Chuck; Andrews, David

**Cc:** Francendese, Leo; Stilman, Terry; Andrew, Gary; Franco, Benjamin; Kenneth Rhame

**Subject:** RE: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

NRC

**From:** Berry, Chuck  
**Sent:** Friday, January 10, 2014 11:09 AM  
**To:** Andrews, David; Negron, Jose  
**Cc:** Francendese, Leo; Stilman, Terry; Andrew, Gary; Franco, Benjamin; Kenneth Rhame  
**Subject:** Re: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

Is this reporting to the NRC or to the Water Division?

Chuck Berry  
EPA OSC  
Via Mobile Device  
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**From:** Andrews, David  
**Sent:** Friday, January 10, 2014 10:42:54 AM  
**To:** Negron, Jose  
**Cc:** Berry, Chuck; Francendese, Leo; Stilman, Terry; Andrew, Gary; Franco, Benjamin; Kenneth Rhame  
**Subject:** RE: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

jose, You win... Yours is the proper answer.... :-)

**From:** Negron, Jose  
**Sent:** Friday, January 10, 2014 10:25 AM  
**To:** Berry, Chuck; Francendese, Leo; R4 ERRB  
**Subject:** RE: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

If they have an NPDES permit which they should, they would be required to report under the Clean Water Act NPDES permit requirement which gives them authority to discharge x amount as part of their regular ops but need to report if they exceed as may happen with an uncontrolled release.

**From:** Berry, Chuck  
**Sent:** Friday, January 10, 2014 9:20 AM  
**To:** Francendese, Leo; R4 ERRB  
**Subject:** Re: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

Saw this last night on reddit. Chem isn't on hazardous substance list (I searched by CAS# but I might have missed it). What is their duty to report to NRC (which they didn't) if its only a "pollutant or contaminant" sans RQ?

Chuck Berry  
EPA OSC  
Via Mobile Device  
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[Berry.chuck@epa.gov](mailto:Berry.chuck@epa.gov)

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**From:** Francendese, Leo  
**Sent:** Friday, January 10, 2014 9:04:06 AM  
**To:** R4 ERRB  
**Subject:** Fw: West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

fyi

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**From:** leofrancendese - **Ex. 6 - Personal Privacy**  
**Sent:** Friday, January 10, 2014 7:57:28 AM  
**To:** Francendese, Leo  
**Subject:** West Virginia chemical spill cuts water to up to 300,000, state of emergency declared - U.S. News

[http://usnews.nbcnews.com/\\_news/2014/01/09/22245996-west-virginia-chemical-spill-cuts-water-to-up-to-300000-state-of-emergency-declared?lite](http://usnews.nbcnews.com/_news/2014/01/09/22245996-west-virginia-chemical-spill-cuts-water-to-up-to-300000-state-of-emergency-declared?lite)